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**From:** Smidinger, Betsy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=08E9600128AD456D9DF9BA1CB816AA8E-BSMIDING]  
**Sent:** 10/19/2020 2:55:56 PM  
**To:** Hall, Katherin [hall.katherin@epa.gov]; Gleason, Michael [Gleason.Michael@epa.gov]  
**Subject:** FW: Response to EPA Order 4711 Allegations

FYI

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**From:** Smidinger, Betsy  
**Sent:** Tuesday, July 28, 2020 10:29 AM  
**To:** **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Wharton, Steve <Wharton.Steve@epa.gov>  
**Subject:** Response to EPA Order 4711 Allegations

**Ex. 6 PP / Ex. 7(C)**

Thank you for bringing your concerns to management. This email formally responds to the allegations you raised under EPA Order 4711, that you have been harassed by the President. Your allegations about the President's statements are not the kind of allegations that the Order was intended to address. EPA's Order was intended to provide a process to "address incidents of harassment...in the U.S. Environmental Protection Agency's (EPA or agency) workplace and to provide a consistent and effective procedure for responding to allegations of harassment." Region 8 management has neither the authority to investigate the conduct of the President and, more importantly, EPA's Order provides Region 8 management no authority to address the alleged conduct or provide any remedy.

However, your opinions about diversity and inclusion are important in the Region, and Deb Thomas and I both encourage you to stay engaged in helping to improve working conditions for our colleagues.

Betsy

*Betsy Smidinger*

*Director, Superfund and Emergency Management Division  
U.S. EPA Region 8  
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[Smidinger.betsy@epa.gov](mailto:Smidinger.betsy@epa.gov)*

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**From:** **Ex. 6 PP / Ex. 7(C)**  
**Sent:** Monday, July 6, 2020 3:13 PM  
**To:** Guelker, Carla <[guelker.carla@epa.gov](mailto:guelker.carla@epa.gov)>; Vigil, Joshua <[Vigil.Joshua@epa.gov](mailto:Vigil.Joshua@epa.gov)>; Merida, Mario <[Merida.Mario@epa.gov](mailto:Merida.Mario@epa.gov)>; Wharton, Steve <[Wharton.Steve@epa.gov](mailto:Wharton.Steve@epa.gov)>  
**Cc:** [brittacopt@gmail.com](mailto:brittacopt@gmail.com)  
**Subject:** EPA order 4711 harassment report and EEO retaliation over a protected activity

Hello:

On Sunday, June 28, 2020, the President of the United States tweeted a video promoting white power. This conduct is threatening, intimidating and discriminates against me as **Ex. 6 PP / Ex. 7(C)** As the head of the United States government the President's actions threaten me directly in the workplace. His video is a direct example of the type of harassment prohibited in EPA order 4711. Furthermore, on June 30, 2020, during a meeting titled "Expanding the Conversation on Racism, Equality, and Injustice", where employees were encouraged to candidly voice our concerns and feelings during these times of racial unrest, I voiced my complaint. Part of the attendees included regional administrator Greg Sopkin and deputy regional administrator Deb Thomas. Under item V.A.4 of the order, "[a]ny supervisor or manager or agency HR official, as described in V.A.1, V.A.2, and V.A.3 above, who receives a report of alleged harassment or otherwise becomes aware of harassment, or an allegation of the same, shall immediately refer the matter to the alleged harasser's first-line supervisor". In item V.A.6 the order establishes a procedure if the alleged harasser is not an agency employee. To this date I have not received a notification that management started investigating my complaint.

As part of my complaint I said that the president incurred in this behavior when he was a candidate and as president. I also said that now that we are approaching the election I expected this behavior to continue, evidenced by the sharing of a racist message in a public forum. I did this to establish past behavior and predict future behavior. I firmly placed these comments in relation to the workplace and his capacity as the head of the federal government. At no point did I engage in "activity directed at the success or failure of a political party, candidate for partisan political office, or partisan political group." I asked that the regional and national SLT send a message to us denouncing such comments every time they came out as they go directly against our anti-discrimination and anti-harassment policies. The day after I made my complaint, Wednesday, July 1, 2020, I received an email at 08:12 from SEMD director Betsy Smidinger. The email is attached. The email did not include a message saying that management started investigating my complaint. The email purports to be a reminder of the Hatch Act but is really retaliation for making my complaint. It is chilling, to say the least, as one of the outcomes of violating the Hatch Act is termination of employment. Two examples of its immediate chilling effect on me:

- I questioned if the federal government was a safe place for me and other non-white persons if the simple act of calling out racist behavior could endanger our employment. How can I work in a place I love if I get pushed out?

**Ex. 6 PP / Ex. 7(C)**

As the email said, I contacted Mike Gleason. He did not know what I said and could not tell me if my expressions violated the Hatch Act. I asked him to find out if my expressions did so. He said he will. He advised that I refrained from making the comment again. I agreed with his advice.

The failure to investigate the complaint and the chilling reminder I received are contrary to what Administrator Wheeler expressed on his June 11 email. Furthermore, his email includes an incident that mirrors the action I denounce here. I ask that you act on this information and take the necessary actions to prevent this from happening again.

**Ex. 6 PP / Ex. 7(C)**